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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 STEVEN BOWERSOCK ET AL.,

12 Plaintiffs,

13 v.

14 UNITED STATES OF AMERICA,
15 ET AL.,

16 Defendants.
17

Case No. 15-mc-00236 JFW (AFMx)

ORDER TO SHOW CAUSE

18 On August 14, 2015, petitioners filed a Petition to Quash 3rd Party
19 Subpoena, in which petitioners sought to quash an IRS summons to RaboBank,
20 N.A. relating to petitioners' tax liability. On August 27, 2015, the Court issued a
21 minute order (Dkt. #7) requiring the following:

22 Petitioners are ordered to file proof with the Court showing that they
23 have complied with the "Requirement of notice to person summoned
24 and to Secretary" as set forth in 26 U.S.C. §7609(b)(2)(B). That
25 subparagraph provides: "If any person begins a proceeding under
26 subparagraph (A) with respect to any summons, not later than the close
27 of the 20-day period referred to in subparagraph (A) such person shall
28 mail by registered or certified mail a copy of the petition to the person

1 summoned and to such office as the Secretary may direct in the notice
2 referred to in subsection (a)(1).”

3 The requirements of 26 U.S.C. §7609(b)(2)(B) (as quoted in the August 27, 2015
4 minute order) are jurisdictional. The failure to timely mail a copy of the petition to
5 the person summoned and the pertinent IRS office by registered or certified mail as
6 required by the statute deprives the Court of jurisdiction. *See, e.g., MacAlpine v.*
7 *U.S.*, 2012 WL 1313202 (W.D.N.C. 2012); *Luongo v. U.S., Internal Revenue*
8 *Service*, 2008 WL 1326953 at *2 (M.D. Fla. 2008) (collecting cases). As of today,
9 however, petitioners have failed to file the necessary proofs of mailing as required
10 by the August 27, 2015 minute order and the statute and have not provided any
11 other response to that minute order.

12 Accordingly, petitioners are **ORDERED TO SHOW CAUSE within**
13 **twenty one (21) days of the date of this Order** why this action should not be
14 dismissed with prejudice for failure to prosecute and lack of jurisdiction.
15 Petitioners may discharge this Order by submitting the proofs of mailing that show
16 timely compliance with 26 U.S.C. §7609(b)(2)(B), as set out in the August 27, 2015
17 minute order.

18 If petitioners no longer wish to pursue this action, they may request a
19 voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a).
20 A Notice of Dismissal form is attached for petitioners’ convenience.

21 The Clerk of the Court is directed to serve a copy of this Order upon
22 petitioners at their address of record.

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24 DATED: 9/22/2015



25 ALEXANDER F. MacKINNON
26 UNITED STATES MAGISTRATE JUDGE
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